

THE 8TH ANNUAL NOT FOR PROFITS AND CHARITIES LEGAL AND REGULATORY CONFERENCE

A TWO-DAY ONLINE CONFERENCE ORGANISED BY
TELEVISION EDUCATION NETWORK PTY LTD

THURSDAY 14 & FRIDAY 15 MAY 2020

Structuring NFP and Charity Boards

Reviewing NFP Governing Documents for Efficiency Gaps and Risk

The Role of the ACNC - Government Review and Responses

Rights and Obligations of NFP Members

Workplace Investigations in NFPs and Charities

Volunteers and the Law

Whistleblowers and Modern Slavery

ACNC External Conduct Standards

Royal Commissions, Reviews and Inquiries – How Should the Sector Respond?

The Impact of Privacy and Data Laws on Charities and NFPs

Accounting Standards - Change Impacting the NFP Sector

Building Financial Resilience – Key Strategies in NFP's Stability and Control

FEEDBACK FROM LAST YEAR'S CONFERENCE:

"Wonderful speakers yet again. Very informative - we gained a lot from the conference, thank you."

"Speakers knew their topics. Presented well. Website papers and conference documents well presented. Clear, concise and accessible. Shared advice of new experience."

"Generally good quality of speakers and content, particularly in terms of the range and currency of topics."

"I always find this conference covers all contemporary issues in the NFP space."



The professional development specialists

DAY 1 THURSDAY 14 MAY 2020

Day 1 Chair: Libby Klein, Director, Social Impact Legal, Blackburn, Vic

Morning Theme: Governance Challenges

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: Structuring NFP and Charity Boards

The correct board structure is an essential requirement of good governance. What does this mean in practice? This session looks at the key requirements on board structure for charities and NFPs. It includes:

- Board type and structure – gaining the bespoke board
- Determining the board mandate and why it is important
- The role of the board chair in your organization
- Good governance principles – board size and rotation of board members
- Structuring the board skill base and aligning with board responsibilities
- Monitoring and accountability of board members
- Performance management for board members
- The role of board subcommittees and the question of independence
 - Audit
 - Nomination
 - Remuneration
- A code of conduct and ethics for board members
- Lessons from the ASX good governance principles
- Case study - Handling board disputes

Speaker: Rebecca Lambert-Smith, Senior Lawyer, Moores, Melbourne

9.55 - 10.05am Question Time

10.05 - 10.50am

Session 2: Reviewing NFP Governing Documents for Efficiency Gaps and Risk

Governing documents, such as constitutions, rules or trust deeds, play a vital role in the operation of a charity or NFP. However, a 'set and forget' attitude can lead to outdated documents and increased risks. This session considers how to review governing documents, and when changes need to be implemented, including:

- Types of governing documents – deeds and constitutions
- Do you have the right governing documents?
- What risk factors to watch out for – identifying red flags
- Auditing checklists for governing documents
- Reviewing policies and procedures for risk and identifying efficiency gaps
- Keeping governing documents up to date
- Tips and tricks for amending governing documents

Speaker: Vera Visevic, Partner, Mills Oakley Lawyers, Sydney

10.50 - 11.00am Question Time

11.00 - 11.25am Morning Break

11.25am - 12.10pm

Session 3: The Role of the ACNC - Government Review and Responses

What is the present role of the ACNC and how will it transform to meet the needs of the future? This session examines the review undertaken of the ACNC, the government's response and the key regulatory and reporting reforms that have arisen in the last twelve months affecting the sector. It covers:

- The ACNC and its interface with government – an overview
- The future of ACNC governance
- The government response to the ACNC review :
 - Expanded delegation powers
 - Harmonising regulatory requirements across jurisdictions
 - Reducing red tape and simplifying reporting requirements
 - Enhancing accountability
 - Mandating disclosure of related party transactions
- Reporting and regulatory compliance update:
 - What can be expected in the next Annual Information Statement?
 - Progress report on red take reduction
 - Recent prosecution activity – lessons for the sector

Speakers: Hon. Dr Gary Johns, Commissioner, Australian Charities & Not-for-profit Commission, Melbourne and Dr Matthew Turnour, Chairman, Neumann & Turnour Lawyers, Brisbane

12.10 - 12.20pm Question Time

DAY 1 THURSDAY 14 MAY 2020

12.20 - 1.05pm

Session 4: Rights and Obligations of Charity or NFP Members

Recent case law has highlighted the importance of understanding the legal definition of members and the rights and obligations granted to them under governing documentation. This session examines who is a NFP member and what rights, responsibilities and liabilities attach to this status. It includes:

- Understanding who is a member and why it is important
- Members rights under the law and the rules of the organization
- A review of members rights:
 - Voting
 - Notice of meetings
 - Right of document access
 - Right to nominate for position
 - Right not to be oppressed
 - Benefit rights
- Knowing who must be notified of AGMs or special resolutions
- Do members have power to control rogue directors?
- Right to remove a member and when it can be challenged
- Members rights and dispute resolution
- Membership and winding up of a not-for-profit body
- Maintaining accurate membership register
- Case report – Faamate v Congregational Christian Church in Samoa - Australia (Ipswich Congregation) [2019] QSC 194

Speaker: Tina Lee, Special Counsel, Prolegis Lawyers, Sydney

1.05 - 1.15pm Question Time

1.15 - 2.15pm Lunch break

Afternoon Theme: Issues in the Workplace

2.15 - 3.00pm

Session 5: Workplace Investigations in NFPs and Charities

Workplace investigations require time and resources, and should account for unique factors in each workplace. This session looks at workplace investigations in the charity and NFP sector. It includes:

- Deciding to investigate – key factors to consider
- Does the charity or NFP workplace present special challenges for workplace investigations?
- Investigating employee complaints – following appropriate procedure
- Dealing with management during the investigation process
- Taking account of employee type characteristic of the sector
- Delivering procedural fairness when there is an under resourced HR environment
- Determining the correct response to work performance or conduct matters
- Managing outcomes of the investigation and alternative dispute resolution

Speaker: Magda Marciniak, Partner, Justitia, Melbourne

3.00 - 3.10pm Question Time

DAY 1 THURSDAY 14 MAY 2020

3.10 - 3.55pm

Session 6: Volunteers and the Law – Essential Compliance for the Charities and NFP Sector

In many respects the volunteer is the lifeblood of the charities and NFP sector. However, this benefit comes at a compliance cost. This session looks at the key compliance obligations when a charity or NFP engages with volunteers. It includes:

- Key legal issues affecting volunteers in the sector
- Managing the risks throughout the volunteer organizational life cycle:
 - Recruitment
 - Induction
 - Managing performance
 - Ending of relationship
- Employment status – employee, contractor or neither?
- WHS issues for volunteers – extent of obligation
- Unlawful workplace behavior and volunteers

Speaker: Adam Foster, Senior Associate, Macpherson Kelley, Melbourne

3.55 - 4.05pm Question Time

4.05 - 4.25pm Afternoon Break

4.25 - 5.10pm

Session 7: Whistleblowers and Modern Slavery: How the Charities and NFP Sector Should Respond to Recent Workplace Reforms

Recent workplace reforms in the areas of whistleblowers and modern slavery have both had significant impacts for the sector. With the NFP and charities sector arguably held to a higher standard than most, it is vital that all organisations are aware of their obligations in these two emerging areas. This session concentrates on practical responses the sector should implement now to ensure their compliance obligations are met. It covers:

Whistleblower laws

- Understanding the new reforms
- Implementing a whistleblower policy
- Training for staff for eligible participants and all staff
- Assessing current procedures for possible change

Modern Slavery laws

- Defining modern slavery – how are charities and NFPs affected?
 - Purchase of high risk products
 - Use of contracted labour or service providers
- Content of Federal modern slavery laws – definition and extent of application
- Reporting obligation – likely impact on sector
- Modern slavery requirements in governing funding obligations – what will this mean for the sector?
- Voluntary compliance – why perception matters
- Procedures to meet compliance obligation
- Managing reputational risk

Speakers: Skye Rose, Practice Leader, and Rebecca Lambert-Smith, Senior Lawyer, Moores, Melbourne

5.10 - 5.20pm Question Time

DAY 2 FRIDAY 15 MAY 2020

Day 2 - Morning Chair: Dr Matthew Turnour,
Chairman, Neumann & Turnour Lawyers,
Brisbane

Morning Theme: Law Reform Affecting the NFP and Charities Sector

9.00 - 9.45am

Session 8: ACNC External Conduct Standards – Content and Application Guidance

The External Conduct Standards set behavioural levels for registered charities in managing activities and resources outside of Australia. With the application of the standards wider than you might think, it has never been more important for the sector to understand their new obligations. This session examines the standards and how they are applied. It includes:

- What are the external conduct standards and which charities must comply?
- A review of standards:
 - Standard 1: Activities and control resources
 - Standard 2: Annual review of overseas activities
 - Standard 3: Anti-fraud and anti-corruption
 - Standard 4: Protection of vulnerable individuals
- How they affect overseas operations – understanding the compliance obligation
- How the Standards interact with Governance Standards
- How the ACNC will monitor compliance
- Will the standards affect the supply chain?
- How will religious charities be impacted by the Standards?
- Case studies – Bribery and other practical application examples

Speaker: Andrew Lind, Director, Corney & Lind Lawyers, Brisbane

9.45 - 9.55am Question Time

9.55 - 10.40am

Session 9: Key Governance Learnings from the Aged Care and Disability Royal Commissions: How Should the Charity and NFP Sector Respond?

Recent inquiries into vulnerable sectors of our society have had a direct impact on the charities and NFP sector. This session looks at how the sector should respond and rise to the challenge and the key cultural and governance lessons all board members should consider in light of these enquiries. It includes:

- Lessons from the Aged Care Royal Commission:
 - Importance of organisational culture on consumer engagement
 - Proper frameworks for complaints and incidents
 - Proper staff training
 - Protection of residents and staff
- Lessons from the Disability Royal Commission:
 - How will the Royal Commission impact disability service providers?
 - Lessons in governance
 - Identifying where the problems are and how your organization can change

Speaker: Sam Burnett, Associate, Prolegis Lawyers, Sydney

10.40 - 10.50am Question Time

10.50 - 11.10am Morning Break

11.10 - 11.55am

Session 10: The Impact of Privacy and Data Laws on Charities and NFPs

Increased regulation over privacy and data management has significantly impacted the NFP and Charities sector. This session looks at the key controls and best strategies to meet the compliance burden of Australia's privacy and data protection laws. It covers:

- Australian Privacy Principles –How they impact the sector
- Setting up appropriate documents and systems to ensure compliance
- Right of access to personal information
- Dealing with a privacy complaint or data breach
- What we can learn from the EU GDPR
- Developing effective privacy and data management policies

Speaker: Lisa Vanderwal, Special Counsel, Bird & Bird, Sydney

11.55am - 12.05pm Question Time

12.05 - 1.05pm Lunch Break

DAY 2 FRIDAY 15 MAY 2020

Day 2 - Afternoon Chair: Andrew Marks, Director,
William Buck, Melbourne

Afternoon Theme: Accounting & Financial
Management

1.05 - 1.50pm

Session 11: Accounting Standards - Change Impacting the NFP Sector

Accounting standards have undergone significant change that impact the NFP sector. With further reforms on the way, now is the time to look at the key changes and their effects. This session covers:

- New developments:
 - ED 295 – New simplified disclosure accounting standard
 - Project for removal of Special Purpose Financial Reports
 - ED 291- New definition of not-for-profit bodies
- Do the accounting standards simplify disclosure obligations?
- Impact of AASB 1058 – Income of Not-For-Profit Entities
- Impact of AASB 16 – Leasing and its impact on NFPs
- AASB 15 - revenue recognition: impacting contractual obligation and deferred revenue

Speaker: Aletta Boshoff, Partner, BDO, Melbourne

1.50 - 2.00pm Question time

2.00 - 2.45pm

Session 12: Building Financial Resilience – Key Strategies in Stability and Control

This session looks at building financial resilience in the charity and NFP sector. This includes structuring financial reserves whilst maximizing tax benefits. It covers:

- Financial structuring in the charities and not-for-profit sector – an overview
- Planning and budgeting for multiple years
- Prioritizing financial health through an operating reserves policy
- Contingency reserves: how should they be structured?
- Structuring maximum tax benefits
- DGR law reforms and impact on financial structuring
- Case study – safeguards against fraud or embezzlement

Speaker: Russell Postle, Consultant, BDO, Brisbane

2.45 - 2.55pm Question Time

2.55pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the online conference, online access to the conference papers and recordings of all conference sessions will be provided after the event.

Conference Papers

TEN no longer provides printed copies of conference papers at its events. Access to the papers will be available online to all delegates in the lead-up to the conference (as the papers become available), during the conference and for 30 days after the conference. The papers will be available in .pdf format for easy download to your local computer or portable device.

CPD Units/Points/Hour

Lawyers (except WA): 7 CPD units (substantive law) **WA Lawyers:** 6 CPD points (substantive law)

Accountants: 11 CPD/Training hours

Online Details

The conference will be streamed to you online .

All delegates will receive a link and user details in the lead-up to the conference.

You can login from anywhere with internet access and attend the conference using your computer or portable device.

Delegates will be able to ask questions using the online question portal. Simply submit your question and the speaker will receive it and answer it during the question time at the end of each session.

We have plenty of breaks throughout the 2 days so that you can stretch your legs, grab a refreshment and have some lunch.

Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

Conference Terms

Program subject to change without notice. The information and views presented in the conference are not necessarily those of TEN, and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for conference cancellation or any other loss or liability is the refund of the registration fee paid.

